



Texas Department of Insurance

Division of Workers' Compensation

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address:

GERARDO PALACIOS
4811 APOLLO AVE
EL PASO TX 79904

Respondent Name:

ZURICH AMERICAN INSURANCE CO.

Carrier's Austin Representative Box

Box Number 19

MFDR Tracking Number:

M4-11-2358-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "These treatment have nothing to do with spondololysis disease. I do not have this congenital disease. Please contact my doctor."

Amount in Dispute: \$3,098.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "**Late filing as to DOS:** The provider's request was not received until 3/14/11. It is not timely as to any DOS prior to 3/14/10. The provider has failed to invoke the jurisdiction of DWC MRD as to these dates. Please dismiss. **The charges are not related to the compensable injury.** The DWC issued a CCH decision on extent of injury in 2004, a copy of which is attached. Attached is a copy of the carrier's dispute information as well

Response Submitted by: Flahive, Ogden & Latson, PO Box 13367, Austin, TX 78711

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 4, 2004 through January 8, 2010	Out-Of-Pocket expenses for medical treatments	\$3,098.00	0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for health care providers to pursue a medical fee dispute.
2. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - EOBs were not submitted by either party.

Issues

1. Did the requestor submit out-of-pocket expenses receipts for the services in dispute in accordance with 28 Texas Administrative Code §133.307?
2. Is there compensability issue in regards to the injured employee's work related injury?
3. Is the requestor entitled to reimbursement?

Findings

Pursuant to "28 Texas Administrative Code §133.307(c) Requests for medical dispute resolution (MDR) shall be filed in the form and manner prescribed by the Division. Requestors shall file two legible copies of the request with the Division. (1) Timeliness. A requestor shall timely file with the Division's MDR Section or waive the right to MDR. The Division shall deem a request to be filed on the date the MDR Section receives the request. (A) A request for medical fee dispute resolution that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute. (B) A request may be filed later than one year after the date(s) of service if: (i) a related compensability, extent of injury, or liability dispute under Labor Code Chapter 410 has been filed, the medical fee dispute shall be filed not later than 60 days after the date the requestor receives the final decision, inclusive of all appeals, on compensability, extent of injury, or liability; (ii) a medical dispute regarding medical necessity has been filed, the medical fee dispute must be filed not later than 60 days after the date the requestor received the final decision on medical necessity, inclusive of all appeals, related to the health care in dispute and for which the carrier previously denied payment based on medical necessity; or (iii) the dispute relates to a refund notice issued pursuant to a Division audit or review, the medical fee dispute must be filed not later than 60 days after the date of the receipt of a refund notice." Dates of service submitted for review were not within the one-year filing deadline, nor was the dispute filed 60 days after the date the requestor received the final decision on compensability or extent of injury."

The Carrier response indicates that the treatment the injured worker sought and received was not related to the compensable injury. Pursuant to "28 Texas Administrative Code §133.305 (b) Dispute Sequence. If a dispute regarding compensability, extent of injury, liability, or medical necessity exists for the same service for which there is a medical fee dispute, the disputes regarding compensability, extent of injury,

liability, or medical necessity shall be resolved prior to the submission of a medical fee dispute for the same services in accordance with Labor Code §413.031 and §408.021.”

Pursuant to “28 Texas Administrative Code §133.307(e)(3) Dismissal. The Division may dismiss a request for medical fee dispute resolution if: (E) the request for medical fee dispute resolution is untimely; and (H) the carrier has raised a dispute pertaining to compensability, extent of injury, or liability for the claim, the Division shall notify the parties of the review requirements pursuant to §124.2 of this title, and will dismiss the request until those disputes have been resolved by a final decision, inclusive of all appeals.”

Conclusion

For the reasons stated above, the division finds that the requestor has established that reimbursement is not due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

September 16, 2011
Date

YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division rule at 28 Texas Administrative Code §148.3(c).